

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 2992**

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**Introduced by Assembly Member La Malfa**

February 22, 2008

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An act to amend Sections 927.2, 927.6, 927.7, and 927.11 of the Government Code, relating to resource conservation districts.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2992, as amended, La Malfa. Resource conservation ~~districts~~ ~~California districts~~: *California Prompt Payment Act*.

Existing law generally provides that a state agency that fails to make any payment for goods and services to certain entities pursuant to a contract shall be subject to an interest penalty fee, according to specified criteria.

This bill would include resource conservation districts within the list of entities entitled to interest penalty fees for the failure of a state agency to make payment for goods and services to a resource conservation district pursuant to a contract, as specified.

*The bill would incorporate additional changes to Sections 927.6 and 927.7 of the Government Code proposed by SB 983, to take effect if this bill and SB 983 are both chaptered, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 927.2 of the Government Code is amended to read:

927.2. The following definitions apply to this chapter:

(a) “Claim schedule” means a schedule of invoices prepared and submitted by a state agency to the Controller for payment to the named claimant.

(b) “Grant” means a signed final agreement between any state agency and a local government agency or organization authorized to accept grant funding for victim services or prevention programs administered by any state agency, *or for fishery restoration activities performed by a resource conservation district and funded by the Department of Fish and Game pursuant to Section 6217.1 of the Public Resources Code*. Any such grant is a contract and subject to this chapter.

(c) “Invoice” means a bill or claim that requests payment on a contract under which a state agency acquires property or services or pursuant to a signed final grant agreement.

(d) “Medi-Cal program” means the program established pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) “Nonprofit public benefit corporation” means a corporation, as defined by subdivision (b) of Section 5046 of the Corporations Code, that has registered with the Department of General Services as a small business.

(f) “Nonprofit service organization” means a nonprofit entity that is organized to provide services to the public.

(g) “Reasonable cause” means a determination by a state agency that any of the following conditions are present:

(1) There is a discrepancy between the invoice or claimed amount and the provisions of the contract or grant.

(2) There is a discrepancy between the invoice or claimed amount and either the claimant’s actual delivery of property or services to the state or the state’s acceptance of those deliveries.

(3) Additional evidence supporting the validity of the invoice or claimed amount is required to be provided to the state agency by the claimant.

(4) The invoice has been improperly executed or needs to be corrected by the claimant.

1 (5) The state agency making the determination or the claimant  
2 involved has been subject to a computing or accounting failure  
3 related to the Year 2000 Problem.

4 (h) “Received by a state agency” means the date an invoice is  
5 delivered to the state location or party specified in the contract or  
6 grant or, if a state location or party is not specified in the contract  
7 or grant, wherever otherwise specified by the state agency.

8 (i) “Required payment approval date” means the date on which  
9 payment is due as specified in a contract or grant or, if a specific  
10 date is not established by the contract or grant, 30 calendar days  
11 following the date upon which an undisputed invoice is received  
12 by a state agency.

13 (j) “Resource conservation district” means a resource  
14 conservation district established pursuant to Division 9  
15 (commencing with Section 9001) of the Public Resources Code.

16 (k) “Revolving fund” means a fund established pursuant to  
17 Article 5 (commencing with Section 16400) of Division 4 of Title  
18 2.

19 (l) “Small business” means a business certified as a “small  
20 business” in accordance with subdivision (d) of Section 14837.

21 (m) “Small business” and “nonprofit organization” mean, in  
22 reference to providers under the Medi-Cal program, a business or  
23 organization that meets all of the following criteria:

- 24 (1) The principal office is located in California.  
25 (2) The officers, if any, are domiciled in California.  
26 (3) If a small business, it is independently owned and operated.  
27 (4) The business or organization is not dominant in its field of  
28 operation.

29 (5) Together with any affiliates, the business or organization  
30 has gross receipts from business operations that do not exceed  
31 three million dollars (\$3,000,000) per year, except that the Director  
32 of Health *Care* Services may increase this amount if the director  
33 deems that this action would be in furtherance of the intent of this  
34 chapter.

35 (n) “Year 2000 Problem” has the same meaning as that set forth  
36 in subdivision (a) of Section 3269 of the Civil Code.

37 SEC. 2. Section 927.6 of the Government Code is amended to  
38 read:

39 927.6. (a) State agencies shall pay applicable penalties, without  
40 requiring that the claimant submit an additional invoice for these

1 amounts, whenever the state agency fails to submit a correct claim  
2 schedule to the Controller by the required payment approval date.  
3 The penalty shall cease to accrue on the date the state agency  
4 submits the claim schedule to the Controller for payment, and shall  
5 be paid for out of the state agency's funds. If the claimant is a  
6 resource conservation district, a certified small business, a nonprofit  
7 organization, a nonprofit public benefit corporation, or a small  
8 business or nonprofit organization that provides services or  
9 equipment under the Medi-Cal program, the state agency shall pay  
10 to the claimant a penalty of one-quarter of 1 percent of the amount  
11 due, per calendar day, from the required payment date. However,  
12 a nonprofit organization shall only be eligible to receive a penalty  
13 payment if it has been awarded a contract or grant in an amount  
14 less than five hundred thousand dollars (\$500,000).

15 (b) For all other businesses, the state agency shall pay a penalty  
16 at a rate of 1 percent above the rate accrued on June 30 of the prior  
17 year by the Pooled Money Investment Account, not to exceed a  
18 rate of 15 percent, except that, if the amount of the penalty is  
19 seventy-five dollars (\$75) or less, the penalty shall be waived and  
20 not paid by the state agency. On an exception basis, state agencies  
21 may avoid payment of penalties, for failure to submit a correct  
22 claim schedule to the Controller by the required payment approval  
23 date, by paying the claimant directly, from the state agency's  
24 revolving fund within 45 calendar days following the date upon  
25 which an undisputed invoice is received by the state agency.

26 *SEC. 2.5. Section 927.6 of the Government Code is amended*  
27 *to read:*

28 927.6. (a) State agencies shall pay applicable penalties, without  
29 requiring that the claimant submit an additional invoice for these  
30 amounts, whenever the state agency fails to submit a correct claim  
31 schedule to the Controller by the required payment approval date.  
32 The penalty shall cease to accrue on the date the state agency  
33 submits the claim schedule to the Controller for payment, and shall  
34 be paid for out of the state agency's funds. If the claimant is a  
35 *resource conservation district, a* certified small business, a  
36 nonprofit organization, a nonprofit public benefit corporation,~~or~~  
37 a small business or nonprofit organization that provides services  
38 or equipment under the Medi-Cal program, *or a disabled veteran*  
39 *business enterprise, as defined in subparagraph (A) of paragraph*  
40 *(7) of subdivision (b) of Section 999 of the Military and Veterans*

1 *Code*, the state agency shall pay to the claimant a penalty of  
2 one-quarter of 1 percent of the amount due, per calendar day, from  
3 the required payment date. However, a nonprofit organization shall  
4 only be eligible to receive a penalty payment if it has been awarded  
5 a contract or grant in an amount less than five hundred thousand  
6 dollars (\$500,000).

7 (b) For all other businesses, the state agency shall pay a penalty  
8 at a rate of 1 percent above the rate accrued on June 30 of the prior  
9 year by the Pooled Money Investment Account, not to exceed a  
10 rate of 15 percent, except that, if the amount of the penalty is  
11 seventy-five dollars (\$75) or less, the penalty shall be waived and  
12 not paid by the state agency. On an exception basis, state agencies  
13 may avoid payment of penalties, for failure to submit a correct  
14 claim schedule to the Controller by the required payment approval  
15 date, by paying the claimant directly, from the state agency's  
16 revolving fund within 45 calendar days following the date upon  
17 which an undisputed invoice is received by the state agency.

18 SEC. 3. Section 927.7 of the Government Code is amended to  
19 read:

20 927.7. The Controller shall pay claimants within 15 calendar  
21 days of receipt of a correct claim schedule from the state agency.  
22 If the Controller fails to make payment within 15 calendar days  
23 of receipt of the claim schedule from a state agency, the Controller  
24 shall pay applicable penalties to the claimant without requiring  
25 that the claimant submit an invoice for these amounts. Penalties  
26 shall cease to accrue on the date full payment is made, and shall  
27 be paid for out of the Controller's funds. If the claimant is a  
28 resource conservation district, a certified small business, a nonprofit  
29 organization, a nonprofit public benefit corporation, or a small  
30 business or nonprofit organization that provides services or  
31 equipment under the Medi-Cal program, the Controller shall pay  
32 to the claimant a penalty of one-quarter of 1 percent of the amount  
33 due, per calendar day, from the 16th calendar day following receipt  
34 of the claim schedule from the state agency. However, a nonprofit  
35 organization shall only be eligible to receive a penalty payment if  
36 it has been awarded a contract or grant in an amount less than five  
37 hundred thousand dollars (\$500,000). For all other businesses, the  
38 Controller shall pay penalties at a rate of 1 percent above the rate  
39 accrued on June 30 of the prior year by the Pooled Money  
40 Investment Account, not to exceed a rate of 15 percent, except

1 that, if the amount of the penalty is seventy-five dollars (\$75) or  
2 less, the penalty shall be waived and not paid by the Controller.

3 SEC. 3.5. Section 927.7 of the Government Code is amended  
4 to read:

5 927.7. The Controller shall pay claimants within 15 calendar  
6 days of receipt of a correct claim schedule from the state agency.  
7 If the Controller fails to make payment within 15 calendar days  
8 of receipt of the claim schedule from a state agency, the Controller  
9 shall pay applicable penalties to the claimant without requiring  
10 that the claimant submit an invoice for these amounts. Penalties  
11 shall cease to accrue on the date full payment is made, and shall  
12 be paid for out of the Controller's funds. If the claimant is a  
13 *resource conservation district, a certified small business, a*  
14 *nonprofit organization, a nonprofit public benefit corporation,*~~or~~  
15 *a small business or nonprofit organization that provides services*  
16 *or equipment under the Medi-Cal program, or a disabled veteran*  
17 *business enterprise, as defined in subparagraph (A) of paragraph*  
18 *(7) of subdivision (b) of Section 999 of the Military and Veterans*  
19 *Code, the Controller shall pay to the claimant a penalty of*  
20 *one-quarter of 1 percent of the amount due, per calendar day, from*  
21 *the 16th calendar day following receipt of the claim schedule from*  
22 *the state agency. However, a nonprofit organization shall only be*  
23 *eligible to receive a penalty payment if it has been awarded a*  
24 *contract or grant in an amount less than five hundred thousand*  
25 *dollars (\$500,000). For all other businesses, the Controller shall*  
26 *pay penalties at a rate of 1 percent above the rate accrued on June*  
27 *30 of the prior year by the Pooled Money Investment Account,*  
28 *not to exceed a rate of 15 percent, except that, if the amount of the*  
29 *penalty is seventy-five dollars (\$75) or less, the penalty shall be*  
30 *waived and not paid by the Controller.*

31 SEC. 4. Section 927.11 of the Government Code is amended  
32 to read:

33 927.11. (a) Except in the case of a contract with a resource  
34 conservation district, a certified small business, a nonprofit  
35 organization, or a nonprofit public benefit corporation, if an invoice  
36 from a business under a contract with the Department of Forestry  
37 and Fire Protection would become subject to late payment penalties  
38 during the annually declared fire season, as declared by the Director  
39 of Forestry and Fire Protection, then the required payment approval  
40 date shall be extended by 30 calendar days.

1 (b) No nonprofit public benefit corporation shall be eligible for  
2 a late payment penalty if a state agency fails to make timely  
3 payment because no Budget Act has been enacted.

4 (c) If the Director of Finance determines that a state agency or  
5 the Controller is unable to promptly pay an invoice as provided  
6 for by this chapter due to a major calamity, disaster, or criminal  
7 act, then otherwise applicable late payment penalty provisions  
8 contained in Section 927.7 shall be suspended except as they apply  
9 to a claimant that is either a resource conservation district, a  
10 certified small business, a nonprofit organization, a nonprofit public  
11 benefit corporation, or a small business or nonprofit organization  
12 that provides services or equipment under the Medi-Cal program.  
13 The suspension shall remain in effect until the Director of Finance  
14 determines that the suspended late payment penalty provisions of  
15 this section should be reinstated.

16 (d) Except as provided in subdivision (b), in the event a state  
17 agency fails to make timely payment because no Budget Act has  
18 been enacted, penalties shall continue to accrue to a resource  
19 conservation district, a certified small business, or a nonprofit  
20 organization until the time that the invoice is paid.

21 *SEC. 5. (a) Section 2.5 of this bill incorporates amendments*  
22 *to Section 927.6 of the Government Code proposed by both this*  
23 *bill and SB 983. It shall only become operative if (1) both bills are*  
24 *enacted and become effective on or before January 1, 2009, (2)*  
25 *each bill amends Section 927.6 of the Government Code, and (3)*  
26 *this bill is enacted after SB 983, in which case Section 2 of this*  
27 *bill shall not become operative.*

28 *(b) Section 3.5 of this bill incorporates amendments to Section*  
29 *927.7 of the Government Code proposed by both this bill and SB*  
30 *983. It shall only become operative if (1) both bills are enacted*  
31 *and become effective on or before January 1, 2009, (2) each bill*  
32 *amends Section 927.7 of the Government Code, and (3) this bill*  
33 *is enacted after SB 983, in which case Section 3 of this bill shall*  
34 *not become operative.*